

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TANIJAH MICHELLE JOHNSON
and JEREMIAH T'YSHON JOHNSON, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ANDREA REYSHIA-RASHEA JOHNSON,

Respondent-Appellant.

UNPUBLISHED
February 18, 2010

No. 292027
Wayne Circuit Court
Family Division
LC No. 05-441476-NA

Before: Gleicher, P.J., and O'Connell and Wilder, JJ.

PER CURIAM.

Respondent appeals as of right the circuit court's order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(a)(ii), (c)(i), (g), (j), and (l). We affirm.

The circuit court adjudicated respondent's two eldest children, TJ and AJ, court wards in 2005, after TJ's father severely abused AJ and respondent delayed seeking medical attention for him, resulting in serious permanent injuries. The circuit court terminated respondent's parental rights to AJ in November 2005 because the court found that respondent lacked the maturity and stability to care for a child with such demanding special needs. However, the court declined to terminate respondent's parental rights to TJ and instead allowed her to work on a treatment plan to reunify her with TJ. JJ became a court ward shortly after his birth in November 2006.

The circuit court then afforded respondent about 2-1/2 years to avail herself of services, but respondent did not participate in services with regularity or derive measurable benefit or progress from the services. At a termination hearing in April 2008, the circuit court acknowledged that statutory grounds existed warranting termination of respondent's parental rights to TJ and JJ. Again, however, the circuit court opted against terminating respondent's parental rights, opining that termination would not serve the children's best interests because respondent had only recently come to understand her need for psychiatric services. Despite that the circuit court afforded respondent another nearly one-year period in which to demonstrate her parenting abilities and to show that she could successfully complete the components of her treatment plan, for a period of six months immediately after the April 2008 hearing respondent ceased all contact with petitioner, failed to attend any visits, and neglected to participate in

services or work toward any aspect of her treatment plan. In April 2009, the circuit court terminated respondent's parental rights to TJ and JJ.

Respondent now disputes that any of the statutory grounds invoked by the circuit court warranted termination of her parental rights. The petitioner bears the burden of proving a statutory ground for termination by clear and convincing evidence. MCL 712A.19b(3); *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000). Once a statutory ground for termination is established by clear and convincing evidence, the circuit court must order termination if "termination of parental rights is in the child's best interests." MCL 712A.19b(5). We review for clear error a circuit court's findings of fact, both with respect to the existence of a statutory ground for termination and whether termination is in a child's best interests. MCR 3.977(J); *In re Trejo*, 462 Mich at 356-357. "A finding is clearly erroneous if although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989) (internal quotation omitted).

In light of the evidence of (1) respondent's failures to comply with critical aspects of her treatment plan and to exhibit consistent or substantial benefit from the services that respondent did participate in after the circuit court terminated her parental rights to AJ in 2005, (2) respondent's six-month period of complete inactivity in 2008, immediately after the circuit court afforded respondent a final opportunity to demonstrate her ability to comply with services, and (3) respondent's history of involvement in abusive relationships, the circuit court did not clearly err in finding that petitioner had established several statutory grounds for termination by clear and convincing evidence. Specifically, the evidence of record supported the circuit court's conclusions regarding MCL 712A.19b(3)(c)(i) (the "conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child[ren]'s age"), (g) (a "parent, without regard to intent, fails to provide proper care or custody for the child[ren] and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child[ren]'s age"), (j) (a reasonable likelihood exists, "based on the conduct or capacity of the child[ren]'s parent, that the child[ren] will be harmed if . . . returned to the home of the parent"), and (l) (a "parent's rights to another child were terminated as a result of proceedings under section 2(b) of this chapter").¹

¹ We need not, and thus decline to, consider the circuit court's invocation of MCL 712A.19b(a)(ii).

Furthermore, considering the prolonged length of time the children resided in foster care, respondent's poor prognosis for improvement, and the children's special needs and need for stability, the circuit court did not clearly err in finding that termination of respondent's parental rights enhanced the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich at 356-357.

Affirmed.

/s/ Elizabeth L. Gleicher

/s/ Peter D. O'Connell

/s/ Kurtis T. Wilder